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OFFICE OF THE ATTORNEY GENERAL
EXECUTIVE BUREAU

93 Judge Road
Lynn MA 01904
September 9, 2014

Honorable Janet L. Sanders
c/o Massachusetts Attorney General
One Ashburton Pl.
Boston MA 02108

Dear Judge Sanders,

Please accept my comments concerning the Consent Judgment for MA Superior Court Civil Action # 14-2033 (Commonwealth v. Partners Health Care System et.al.). The comments are made on behalf of our neighborhood group that has filed for consideration as a Ten Taxpayer Group with the MA Department of Public Health in regard to Partners Health Care's plans for the North Shore Medical Center's (NSMC) Union Hospital in Lynn, Massachusetts. The fate of Union Hospital is directly tied to Partners' acquisition of Hallmark Health Corporation. If the Consent Judgment is allowed and Partners acquires the Hallmark Health facilities in Medford, Melrose and Stoneham, Partners plans to remove all acute care inpatient beds at Union Hospital and repurpose the hospital as a free-standing Mental Health/Behavioral Health facility and as a result leave the City of Lynn as the only city in the Commonwealth with a population greater than 60,000 (Lynn's population is over 90,000) without a full-service acute care hospital. The removal of the acute care beds will leave the NSMC Patient Service Area (as described on p.8 of the 2012 NSMC Community Health Assessment) with an acute care inpatient bed rate of 1.6 beds/1000 people. This figure is 50% lower than the statewide average of 2.4 beds/1000 people and 62% lower than the national average of 2.6 beds/1000 people. (MA Health Care Innovation Plan-September 2012, p.12) In our opinion, Partners plans for health care delivery in the region represent a deliberate and concerted effort by Partners to distance itself from the poor, the elderly and the non-commercial rate payers in larger urban areas. This effort that denies the residents of the Greater Lynn region access to essential health care services should not be rewarded by granting Partners a greater market share and greater leverage in that market through a Consent Agreement that fails to address the legitimate issues that are raised in the original Complaint.

In an effort to save your time and reduce the length of this submittal, I am attaching two commentaries sent to the MA DPH's Health Policy Commission (HPC) concerning the Partners/Hallmark Health merger. These documents express and summarize the concerns of our group. Members of our group also spoke at the Public Hearings held by the MA DPH's Determination of Need Division. This oral testimony is not yet available to the public. Since the Consent Judgment, as one condition of settlement, approves the Partners/Hallmark Health merger, the efforts stated above were a waste of time for both the members of our group and the HPC. Approving or confirming the Consent Judgment prior to the completion of the public comment period, the public hearing process, agency review (the HPC's Final Report on the Partners/Hallmark Health merger was not completed until September 3, 2014) and agency decision-making has rendered the entire DoN procedure as defined and required under 105 CMR 100.000- 105 CMR 100.981 a senseless and ineffectual activity. For this fact alone the Court should refuse to ratify or approve the Consent Judgment.

HPC's 79 page Final Report raised the same legitimate issues and concerns expressed in the original Complaint concerning Partners increased market share, affiliations with both owned and unowned physicians and their cost containment methodology and planning. All of the report's Expert Testimony questioned Partners financial data and projections as well as the supposed improvements resulting from the Partners takeover of Hallmark Health. All of the Expert Testimony found that Partners would gain undue market power and saw few, if any, likely cost containment measures other than Partners proposed rationalization that basically is the reduction or removal of essential health care services from entire regions. (See attachments to HPC's Final Report). The Final Report also questions the merger's impact on both the quality of health care services delivered and the merger's impact on patient access to health care services. The Report states that "the proposed reconfiguration and relocation of services is anticipated to impact especially vulnerable populations as they seek to access services at new, more distant locations" (p.78). In its Conclusion section the HPC further states "we find that the proposed transaction between Partners and Hallmark is likely to increase health care spending in northeastern Massachusetts, reinforce Partners' market power, and, overtime increase premiums for employers and consumers." (p.78) The HPC finds that the subject merger would have exactly the effect alleged in the original Complaint to be in violation of MGL c. 93A. For this additional reason, the Court should refuse to ratify or approve the Consent Judgment.

By allowing Partners to increase its already significant market leverage, the Consent Judgment worsens the very situation that the original Complaint attempts to address. The August 2013 Annual Report on Massachusetts Health Care Market (MA CHIA) shows that in 2011 Partners' Hospital System received approximately 1/3 of total commercial payments to acute care hospitals while another 1/3 went to all other hospital systems combined (p. 28). After the subject Consent Judgment and the ensuing merger, Partners' share will be decidedly greater than all other hospital systems combined. The approval of the Partners/Hallmark Health merger appears in contradiction to the statement made in the March 16, 2010 Examination of Health Care Cost Trends and Cost Drivers, a publication of the Massachusetts Attorney General's Office. The report finds that "(p)rice variations are correlated to market leverage as measured by the relative market position of the hospital or provider group compared with other hospitals or provider groups." The subject merger further distorts the existing commercial health care marketplace to the direct benefit of Partners and in direct opposition to both the intent of MGL c. 93A and the benefit of the patients and ratepayers of the northeastern region of the state. The MA CHIA report also indicated that Partners "had acute hospital price levels in 2012 that were higher than the network median price across all payer networks" (p.29) and in addition "Partners was the only physician group system that had a health adjusted Total Medical Expense (TME) in the top three payers' networks in 2010 and 2011" (p. 29). Rather than foster competition in the health care marketplace and encourage cost containment measures, the Consent Judgment rewards a provider with higher than average hospital costs and the highest physician costs with a greater share of the health care marketplace. This should not be allowed.

The Consent Judgment ignores the negative ramifications of the very conditions that the agreement creates and imposes. Partners is allowed to greatly increase its market share by acquiring three additional health care facilities. The actual impact of this transaction is greater because this is not merely a case of Partners' system growing but also a case of the competition shrinking. Partners is allowed to increase its (highest in the business) control and influence over

physician groups by the increased affiliation with the physicians now working in the two hospital systems involved in the mergers. The Consent Judgment fails badly in the effort to “prevent, restrain and/or remedy these adverse effects on competition and consequent harm to consumers.” (p. 2 of Complaint)

Based on the points raised above and on behalf of the members of our Ten Taxpayer Group, I respectfully request that you fail to ratify and you deny the subject Consent Judgment.

Sincerely,

Michael J. Toomey

93 Judge Road
Lynn MA 01904
July 7, 2014

Mass. Health Policy Commission
Two Boylston St. 6th Floor
Boston MA 02116

Dear Commission Members ,

We are writing to you on behalf of our family, our neighbors and the petitioners (see enclosed sheets—originals sent to MA DPH) to seek your assistance to stop Partners Health Care from removing the full-service, inpatient beds and services at Union Hospital and converting the hospital into what most Lynn residents believe will be the second largest private inpatient Mental Health/Psychiatric facility in the Commonwealth. One major reason for our concern is that the plan leaves the residents of the Greater Lynn region without access to full-service, inpatient medical services. Union Hospital presently provides “essential services” to the densely-populated area that includes Lynn, Saugus, Lynnfield and portions of Peabody. According to Mass Health Data Consortium reports from 2009-2012, Union Hospital provided an annual average of \$158.5 Million in inpatient health care services. The Union Hospital site is readily accessible from Rte. 1, Rte. 128, Rte. I-95 and Rte. 129 while access to Salem Hospital is limited to Rte. 107. If their plan is approved by the Commonwealth’s Department of Public Health (DPH), the City of Lynn will be the only Massachusetts city with a population of over 60,000 (2010 Lynn Census population was over 90,000) without a full-service, inpatient hospital and the region of Lynn, Saugus, Lynnfield and South and West Peabody will most certainly be the most densely populated area in the state without a full service, inpatient hospital. This is just not acceptable. The residents of this region need a full-service, acute care inpatient facility.

If the Partners “model” is approved by DPH, McLean Hospital in Belmont will be the only larger private Mental Health facility in the Commonwealth. One very important difference is that McLean is situated on over 120 acres and has a large buffer between the facility and the surrounding neighborhoods. The Union Hospital site contains somewhere in the vicinity of 12 acres and is located in a single-family residential neighborhood where the neighbors’ backyards and back doors are literally feet away from the hospital itself. The Union Hospital area is home to two City of Lynn Elementary Schools and a very busy private Nursery School is located directly across from the Hospital’s main entrance. For the neighbors of Union Hospital and the parents of the schoolchildren, this is a great concern. Directly abutting the property is a group home for mentally-retarded residents operated by Bridgewell.

Another disturbing aspect of the Partners “model” is that while they have publicly stated that they are expanding and improving the delivery of Mental Health services to the region and they are giving Lynn residents “the services that they most need” (Maybe Partners actually believes that Lynn residents and residents of the surrounding regions of Saugus, Lynnfield and South and West Peabody don’t need medical services but do need psychiatric services), the fact remains that the Partners’ plans do not expand and improve the delivery of Mental Health services for residents of this region, but rather the plans provide for the closing of the Mental Health units at Salem Hospital and Lawrence Memorial Hospital in Medford and the transfer of

those patient beds to Union Hospital. As a result there could actually be fewer Mental Health beds and services available for area residents. At a public meeting on Partners' plans Lynn School Committee member Donna Coppola expressed her concerns about the safety of the area's schoolchildren and at the same time commented that Partners' "model" brings to mind the "warehousing" of Mental Health patients associated with places like Danvers State Hospital. The Partners plans are not only unfair to the Union Hospital neighbors but also to the Mental Health patients who will have to find their way from Medford, Cambridge Arlington, Salem, Danvers and downtown Peabody to the Union Hospital site. Many of these patients rely on public transportation and the MBTA. They will face a minimum of two buses to get to the Union Hospital site. Partners is ignoring the fact that their own studies/reports and the Massachusetts Mental Health department data and research support the benefits of Community-based Mental Health programs and services. Lynn Police Chief Kevin Coppinger has raised concerns about how these patients are going to get to and from their home communities. Partners own published materials indicate that many Mental Health/Behavioral Health patients (particularly the elderly) have medical as well as psychiatric issues and benefit from placement in a full-service hospital. Partners' "model" will deprive these patients (and the 50-75 inpatient Mental Health/Behavioral Health patients presently bedded at Union Hospital) of that benefit. This seems both unfair and impractical.

We fully understand the need for health care cost containment but we have great concern about Partners' direction and efforts to remove themselves from densely populated/urban settings and therefore make access to necessary and urgent medical care more costly and more difficult for those who can least afford it.

We hope that you share the concerns of the Lynn area residents, the Lynn City officials and the neighbors of Union Hospital and will share your sentiments with the members of the Massachusetts' Public Health Council, the DPH Commissioner, the DMH Commissioner, the Board of Directors for Partners Healthcare and any other state boards or agencies reviewing the Partners' plan.

If we can provide any added information, don't hesitate to contact us by phone at (781-581-7575) or by e-mail at toomeym@comcast.net.

Sincerely,

A handwritten signature in cursive script that reads "Michael Toomey".

Michael Toomey on behalf of the

Union Hospital Petitioners' Group

93 Judge Road
Lynn MA 01904
July 18, 2014

Mr. Bernard Plovnick
Director, Determination of Need Program
Commonwealth of Massachusetts
Department of Public Health
250 Washington Street
Boston, MA 02108

Re: Determination of Need – Hallmark Health/ Partners Merger DoN # 3C35

Dear Mr. Plovnick,

Please accept these written comments concerning the proposed Hallmark Health/Partners Health Care merger. I am fearful that if Partners gets approval for this merger it is a validation of their plans for the Greater Lynn region. It seems that the Health Policy Commission may share that opinion since the Preliminary Report on this merger (July 2, 2014) makes over 175 references to either the NSMC-Salem or the NSMC-Union. I will limit my comments to the impacts of the merger and will use the three topics from the Conclusion section of the Preliminary Report as a reference for my comments.

Cost Impact: According to both the Massachusetts Health Planning Council and Massachusetts Attorney General Martha Coakley the proposed merger will reduce competition, negatively impact cost-containment efforts, greatly increase Partners' market share and result in higher healthcare costs for both patients and insurance providers. The increasingly concentrated market that will result from this merger moves Partners closer to monopolistic control of the region's health care. If approved, the merger will reward Partners, the provider with the highest costs and the highest Total Medical Expenses with a greater share of the region's healthcare market. This certainly sends the wrong message to Partners and also to the other healthcare providers.

From the Preliminary Report and the Partners' informational releases, it would appear that the only cost savings that would ensue from this merger is the result of removing "essential services" from entire geographical regions. Removal of Behavioral Health beds and Acute Care beds from Lawrence Memorial Hospital, removal of Behavioral Health beds from Melrose-Wakefield Hospital, removal of Acute Care beds from Union Hospital and removal of Behavioral Health beds from Salem Hospital may be considered cost-saving measures by Partners. The "robust population health management (PHM) model" as referred to in the Preliminary Report apparently means saving money by removing "essential services" and creating "underbedded" regions (for Behavioral Health in the Lawrence Memorial and Melrose-Wakefield Hospital Patient Service Areas and for Acute Care in the Union Hospital Patient Service Area). In regard to Behavioral Health beds it means moving them all to another community (Lynn) into an area that is already served by two existing Behavioral Health/Psychiatric units at Union Hospital and also by a Behavioral Health/Psychiatric facility

(Bay Ridge Hospital) that is located less than three miles away. These proposed activities may be cost-saving but they are not cost-efficient and certainly do not contribute to the availability, accessibility or quality of health care services to the citizens of the North Shore. For these reasons alone the merger should be denied.

Quality Impact: One aspect of healthcare quality that is ignored by the plans associated with the merger is the appropriate geographic allocation of resources. The quality of the sites for the delivery of the health care to be provided after the proposed merger appears to ignore the geography and the demography of the region. The merger/plan proposes to repurpose two hospitals from Acute Care full-service hospitals that include Behavioral Health/Psychiatric units to satellite facilities (one for Short Stay services and the other exclusively for Behavioral Health/Psychiatry) and to increase the Acute Care full-service beds and services at the other two hospitals. The problem as related to geography and quality is that the two hospitals that are repurposed as satellites are located much closer to urban, densely-populated areas and are much closer to major highways while the two Acute Care sites are removed from the more populated areas (and also from the poor and the elderly) and distanced from any major highways. Emergency vehicle time and access to the two Acute Care hospitals is a real concern. A local or regional emergency, particularly one associated with bad weather, is particularly troubling.

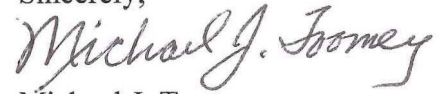
Another issue in regard to the quality of health care for the Behavioral Health/ Psychiatric patients is that because of accompanying medical and/or physical problems these patients benefit from placement in a full-service hospital. Apparently any medical and or physical problem for these patients will necessitate a trip by ambulance to an Acute Care hospital. Behavioral Health/Psychiatric care units should be included in Acute Care full-service hospitals. Is Behavioral Health care headed back to the 1970's and the "warehousing" of patients in facilities that provide little or no attention to the medical and physical needs of these patients?

Access Impact: It is apparent that access to acute/surgical inpatient care for at-risk, poor and minority populations were not the primary focus of Partners new "model" of health care for Northeastern Massachusetts. If the merger is approved, Partners would remove all inpatient acute care from Lawrence Memorial Hospital in Medford and transfer those beds to the less-populated and certainly wealthier town of Melrose. The Medford location is more accessible both by highway and by public transportation. Partners also would remove all inpatient acute care from Union Hospital in Lynn and transfer those beds to Salem, a less-populated and somewhat wealthier city. The Lynn site is decidedly more accessible by car.

As stated above access to Union Hospital for Behavioral Health/Psychiatric patients from the Lawrence Memorial, Melrose-Wakefield and Salem Patient Service Areas is a real concern. Partners "model" of excellence in health care delivery puts the greatest burden for access to essential services on those patients that are least able to bear that burden. Nothing in the proposed merger and/or the Partners model improves access to essential health care services for at-risk, underserved and government payer patient populations. In fact, the model does just the opposite and actually denies or makes access to high quality, essential health services more difficult.

Rather than approve the Hallmark Health/Partners Healthcare merger, increase health care costs and grant Partners a health care monopoly in Northeastern Massachusetts, the Health Policy Commission should deny the merger, throw out Partners "model" and encourage and support a "community hospital model" that ensures a healthy and competitive health care market that fosters cost containment, innovation and high-quality, accessible health care services.

Sincerely,

A handwritten signature in dark ink, reading "Michael J. Toomey". The signature is written in a cursive style with a large, stylized "M" and a long, sweeping tail on the "y".

Michael J. Toomey